

THE ROLE OF THE AD HOC GROUP IN THE REGULATORY PROCESS

The purpose of the ad hoc group is to assist in the development of a proposed regulation. This group has been formed to balance the concerns of all those interested in this particular regulation. All such concerns will be addressed by the group, and any group member is free to advance any opinion.

Of DEQ staff on the group, the Office of Air Regulatory Development will coordinate the group's activity, provide staff support, draft the regulation, and act as the group's liaison to DEQ management, the State Air Pollution Control Board, EPA, and the Office of Attorney General.

Ad hoc group meetings are public meetings. Any member of the public may attend and observe the proceedings; however, only ad hoc group members may participate.

The role of the group is **advisory**. The group's function is to make recommendations to DEQ management and to the State Air Pollution Control Board on a specific action.

Neither DEQ nor the board is obligated to accept the group's recommendations.

The group's primary responsibility is to contribute to a regulation that is in the in the best interests of the Commonwealth as a whole. The Office of Air Regulatory Development staff will present differing opinions to DEQ management and the board.

After the group makes its recommendations, DEQ management will develop the department's position, which will be sent to the board prior to the meeting at which it addresses this issue. In turn, the board will decide if DEQ's recommendation should be modified before the proposed regulation is promulgated for public comment.

The documentation sent to the board before the meeting will also be sent to the ad hoc group. As with all other members of the public, members of the group are free to attend the meeting at which DEQ will present its recommendation, but the board will not receive comment at that time. Public comment will be received only after the proposed regulation has been promulgated for public comment.

After the board approves the promulgation of the proposal, the proposed regulation will undergo executive review and then be published in the Virginia Register, marking the beginning of a 60-day comment period. During this period, any member of the public may comment on the proposed regulation. These comments will be forwarded to the board and will be responded to in the public record. Any member of the ad hoc group, like any other member of the public, is free to express any opinion on the proposed regulation.

The key steps in the regulation development process are provided in the attached table.

Virginia Regulation Adoption Process - Key Steps

The maximum or minimum number of days allotted to accomplish each step as mandated by law or executive order is indicated after each step, as applicable.

Regulatory action notification stage.

1. Agency makes determination to promulgate regulation.
2. Agency prepares and submits preliminary determination for proposal to Secretary of Natural Resources and Department of Planning and Budget (DPB).
3. DPB conducts policy review of preliminary determination (14 days maximum).
4. DPB Advises Secretary and Governor as to whether proposal complies with executive policy.
5. Secretary notifies Governor of preliminary decision on proposal.
6. Governor notifies Secretary of final decision on proposal.
7. Secretary gives agency approval to publish Notice of Intended Regulatory Action (NOIRA).
8. Agency prepares and transmits NOIRA to Registrar of Regulations (14 days maximum).
9. Registrar publishes NOIRA in Virginia Register (20 days minimum).
10. Public comment period opens (30 days maximum for steps 10, 11, and 12).
11. Agency holds public meeting.
12. NOIRA comment period closes.

Proposed regulation development and promulgation stage.

13. Agency prepares (**in conjunction with ad hoc group**, if any) proposed regulation (**180 days maximum** for steps 13, 14, 15 and 16).
14. Agency presents proposed regulation to Board for publication approval.
15. Attorney General sends statutory authority statement to agency.
16. Agency prepares and submits regulatory review package to DPB and Secretary.
17. DPB conducts policy review and prepares economic impact analysis (45 days maximum).
18. DPB sends Registrar and agency copy of economic impact analysis.
19. Agency prepares response to DPB economic impact analysis.
20. DPB advises Secretary and Governor as to whether proposal complies with executive policy.
21. Secretary notifies Governor of preliminary decision on proposed regulation.
22. Governor notifies Secretary of final decision on proposed regulation.
23. Secretary gives agency approval to submit regulatory review package to Registrar.
24. Agency submits regulatory review package to Registrar (14 days maximum).
25. Proposed regulation published in Virginia Register (20 days minimum).
26. Public comment period opens (60 days minimum for steps 26, 27, 28, and 29).
27. Public hearing(s) held on proposed regulation.
28. Governor submits comments to Virginia Register for publication.
29. Public comment period closes.

Final regulation development and promulgation stage.

30. Agency addresses public comments and prepares changes to proposed regulation (120 days maximum for steps 30, 31, 32, and 33).
31. Agency submits proposed regulation with any suggested changes to Board for approval as final regulation.
32. Attorney General sends statutory authority statement to agency.
33. Agency transmits final regulation to Virginia Register for publication.
34. Registrar publishes final regulation in Virginia Register (20 days minimum).
35. Final adoption period commences (30 days minimum for steps 35 and 36).
36. Final adoption period ends.
37. Final regulation becomes effective immediately or on date specified by agency.